

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 3639-02
Bill No.: SB 1000
Subject: Prisons and Jails; Crimes and Punishment; Criminal Procedure; Department of Corrections; Department of Public Safety
Type: Original
Date: January 21, 2004

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2005	FY 2006	FY 2007
General Revenue	(More than \$2,516,034)	(More than \$1,678,003)	(More than \$1,683,171)
Total Estimated Net Effect on General Revenue Fund	(More than \$2,516,034)	(More than \$1,678,003)	(More than \$1,683,171)

ESTIMATED NET EFFECT ON STATE FUNDS			
FUND AFFECTED	FY 2005	FY 2006	FY 2007
DNA Database Fund*	\$0	\$0	\$0
Total Estimated Net Effect on <u>All</u> State Funds*	\$0	\$0	\$0

*Offsetting Revenues and Costs in DNA Database Fund could exceed \$100,000 in any given fiscal year.

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 9 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2005	FY 2006	FY 2007
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2005	FY 2006	FY 2007
Local Government	(Unknown)	(Unknown)	(Unknown)

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Social Services, Office of State Public Defender,** and the **State Treasurer's Office** assume the proposed legislation would have no fiscal impact on their agencies.

Officials from the **Office of State Courts Administrator (CTS)** assume the proposed legislation would make various revisions to the statutes relating to DNA analysis, expanding the list of those persons who must provide a sample. The legislation also assesses a mandatory fee of \$160 to those who qualify, to be collected by Department of Corrections. Persons who have been proven innocent and whose conviction has been set aside may petition the court for expungement of their DNA-related records. CTS would not expect that the number of persons seeking expungement would be so great as to have a fiscal impact on the courts.

Officials from the **Office of Prosecution Services** assume prosecutors could absorb the costs of the proposed legislation within existing resources.

ASSUMPTION (continued)

Officials from the **Department of Mental Health (DMH)** assume all responsibility for procuring blood samples falls to agencies/parties other than the DMH. Therefore, there would be no cost to the DMH.

Officials from the **Department of Corrections (DOC)** assume this proposal mandates that DOC (which includes the Division of Probation and Parole, or P&P) to collect DNA samples from all felony offenders which includes convictions, nolos, and guilty pleas (including SIS and SES.)

DOC has around 30,000 offenders in the Division of Adult Institutions (DAI) with day-to-day turnover of offenders. DOC has about 60,000 felons under supervision in P&P at any given time with constant changeover.

The current DNA database and tracking system would have to be modified system-wide to identify offenders who would need to be tested, notify and counsel with those offenders, schedule and ascertain availability of offenders for testing, and provide that staff witness the collection at the time of the test. Evidence handling protocol would have to be enhanced. Staff (probably licensed phlebotomists) would have to be funded for each site. DOC's contracted inmate medical care provider does not collect blood for forensic functions, but merely for patient care purposes. The additional staff person who has to be present at the time of testing would be absent from their current post and job duties.

Offenders in the field (as opposed to incarcerated offenders) are much more likely to fail to appear and then have to be located and physically brought to the testing site. Court action is sometimes necessary and this is a costly endeavor to the state. It is impossible to estimate the number of offenders who might abscond to avoid testing and/or payment. It is also impossible to estimate how many further incarcerations would result due to failure to comply with this proposal. If additional persons are sentenced to the custody of the DOC due to the provisions of this legislation, the DOC will incur a corresponding increase in operational cost either through incarceration (FY03 average of \$38.10 per inmate per day, or an annual cost of \$13,907 per inmate) or through supervision provided by the Board of Probation and Parole (FY03 average of \$3.15 per offender per day, or an annual cost of \$1,150 per offender).

Incarcerated offenders can refuse to be tested. The proposal is unclear whether use-of-force would be authorized to collect a sample. If so there will be overtime for the use-of-force and the subsequent paperwork, as well as additional staff accidents/workman comp claims.

ASSUMPTION (continued)

A very high percentage of offenders do not have the \$160 this bill deems that DOC collects. DOC does not currently have the staff necessary to collect it if it was available. Any money that was collected would not defray DOC costs, as it goes to Public Safety. Two-thirds of the incarcerated offenders within DOC have a fixed monthly income of \$7.50 to \$8.50 (once they have earned their GED they are eligible for the extra \$1) to use for repayment of debt to the state of Missouri as restitution, child support and/or for court fees. The DOC is court-ordered to provide the \$7.50 monthly stipend in order for them to have access to the court system and to purchase hygiene items.

Collected samples would have to be stored correctly and the DOC does not currently have the means to carry this out at this volume. Transportation costs would be incurred from DAI and P&P sites throughout the state to deliver collected samples to the crime labs. This would take more officers away from their posts.

In summary, the fiscal impact for DOC to implement this proposal would be very significant. The exact cost cannot be estimated, but has the potential to be in the millions of dollars annually.

Officials from the **Department of Public Safety – Missouri State Highway Patrol (MHP)** assume the proposed legislation would increase current annual DNA analysis from approximately 2,200 to 28,000 (new offenders) samples. Upon implementation of the law, approximately 108,575 (backlog) adult individuals who are presently under the supervision of the Department of Corrections will qualify for collection and analysis. The MHP would provide training and collection kits to the Department of Corrections. With equipment upgrades, the Profiling unit of the MHP's Crime Lab would be able to analyze the annual incoming offender samples and a portion of the offender backlog. It is unknown how quickly the Department of Corrections would provide the DNA samples from individuals already incarcerated or under field supervision to the MHP for analysis. MHP assumes the backlog samples would be provided by the Department of Corrections and be analyzed over a period of four years. The DNA processing cost is based on the estimated number of offenders, which was provided by the Department of Corrections in 2003, multiplied by the present cost of reagents and supplies. The equipment upgrade and additional employees are based on the estimated number of annual new offenders (not the initial backlog of 108,575) and the number of employees and the number and type of equipment needed to process these samples.

ASSUMPTION (continued)

The Crime Lab would require the following additional FTE as a result of the proposed legislation:

2 Criminalists (each at \$28,044 per year) – duties would be to perform DNA sample preparation, analysis and review.

1 Laboratory Evidence Control Clerk (at \$18,732 per year) – duties would be to perform data entry, filing, and sample tracking and control.

1 Laboratory Evidence Technician (at \$22,320 per year) – duties would be to perform sample preparation, equipment maintenance and other laboratory support duties.

MHP estimates the total cost to be \$1,591,014 in FY 05; \$1,730,612 in FY 06; and \$2,126,530 in FY 07.

MHP assumes the proposed legislation would result in long-range costs due to the increase current annual DNA analysis from approximately 2,200 to 28,000 (new offenders) samples. Upon implementation of the law, approximately 108,575 (backlog) adult individuals who are presently under the supervision of the Department of Corrections will qualify for collection and analysis. MHP assumes the backlog samples would be provided by the Department of Corrections and be analyzed over a period of four years. MHP estimates the long-range costs to be \$2,277,491 in FY 08 and \$977,631 in FY 09 and beyond.

Oversight assumes the proposal would require a DNA sample be obtained from certain new offenders and certain currently incarcerated individuals before their release. Department of Corrections stated there are approximately 18,000 persons released from Department of Corrections institutions annually. Oversight assumes MHP will perform DNA analysis on 46,000 persons annually (28,000 new offenders and 18,000 offenders to be released).

Oversight assumes revenues of an Unknown amount will be collected by the Department of Corrections and transmitted to the Department of Public Safety in the DNA Database Fund for the operation and support of CODIS systems.

Oversight assumes local crime laboratories would have an increase in costs due to the increased number of samples to be tested. Oversight has reflected this increase in costs as Unknown.

<u>FISCAL IMPACT - State Government</u>	FY 2005 (10 Mo.)	FY 2006	FY 2007
GENERAL REVENUE FUND			
<u>Costs</u> – Department of Corrections			
Increased personnel, expense, incarceration, and probation and parole costs	(More than \$100,000)	(More than \$100,000)	(More than \$100,000)
<u>Costs</u> – Missouri State Highway Patrol			
Personal Service (4 FTE)	(\$82,974)	(\$102,058)	(\$104,609)
Fringe Benefits	(\$42,532)	(\$52,315)	(\$53,623)
Equipment and Expense	<u>(\$2,290,528)</u>	<u>(\$1,423,630)</u>	<u>(\$1,424,939)</u>
<u>Total Costs</u> – MHP	<u>(\$2,416,034)</u>	<u>(\$1,578,003)</u>	<u>(\$1,583,171)</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	<u>(More than \$2,516,034)</u>	<u>(More than \$1,678,003)</u>	<u>(More than \$1,683,171)</u>
DNA DATABASE FUND			
<u>Revenues</u> – Department of Public Safety			
*Fees collected by Department of Corrections	Unknown	Unknown	Unknown
<u>Costs</u> – Department of Public Safety			
*Operations of CODIS Systems	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
ESTIMATED NET EFFECT ON DNA DATABASE FUND*	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

*Offsetting Revenues and Costs could exceed \$100,000 in any given fiscal year.

FISCAL IMPACT - Local Government

FY 2005
(10 Mo.)

FY 2006

FY 2007

CRIME LABORATORIES

Costs – increased DNA samples for testing

(Unknown)

(Unknown)

(Unknown)

**ESTIMATED NET EFFECT ON
CRIME LABORATORIES**

(Unknown)

(Unknown)

(Unknown)

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

DESCRIPTION

The proposed legislation would provide that results of forensic DNA analysis be admissible as evidence to prove or disprove any relevant fact during a criminal trial or proceeding. Under this proposal, the “DNA Profiling System” is designed to assist federal, state, and local law enforcement with the identification, investigation, and prosecution of individuals, as well as the identification of missing people.

The proposal would require the DNA profiling system to support the development of forensic studies and protocols, and maintain a population statistics database for crime laboratories, in addition to the other activities it performs.

The proposal would require the DNA profiling system to collaborate with the FBI and other agencies relating to the state’s participation in the FBI’s Combined DNA Index System(CODIS).

The proposal would allow the Department of Corrections, Division of Probation and Parole, an authorized designee, or a contracted third party to collect DNA samples.

DESCRIPTION (continued)

This proposal would require that every individual, who pleads guilty to a felony or any sexual offense pursuant to Chapter 566, RSMo, provide a sample for the purposes of DNA profiling analysis. An individual would be tested: 1) upon entering the Department of Corrections; 2) before release from a county jail, detention facility, state correctional facility, mental health facility, or other institution; 3) upon being admitted to Missouri from another state pursuant to an interstate compact; or 4) while under the jurisdiction of the Department of Corrections, if the person is already under such jurisdiction, he or she may not be released before the end of the maximum term available unless the person has provided a DNA sample.

The proposal would require a person to provide another sample for DNA profiling analysis, if his or her original sample was not adequate for any reason. In addition, the proposal would limit the effect of obtaining or placing an offender's DNA sample in the database by mistake.

The proposal would require that a mandatory fee of \$160 be assessed on any person who has committed a qualifying offense pursuant to this act. The fee would be collected by the Department of Corrections and transmitted to the Department of Public Safety, in order for a DNA database fund to be established. The fund would be used for the operation of the CODIS systems. If an inmate would refuse to pay this fee, the Department of Corrections could collect the amount owed from the inmate's wages or prison account.

This proposal would make all DNA records and biological materials retained for the DNA profiling system closed records. The records would be considered confidential, and with limited exceptions, could not be disclosed. Anyone would who properly obtain the records could only use the information for certain specified purposes.

The proposal would allow individuals to request expungement of their DNA sample and profile if the court issues a dismissal of the charges or reversal of the decision. The proposal would set out the proper procedure to be used when a person requests expungement of his or her information and such expungement is granted. With the expungement of information, the highway patrol would not be required to destroy evidence obtained from DNA samples if evidence relating to other people would be destroyed as well. The failure or delay in expunging a person's information would not be a reason to suppress evidence or change the result of his or her case.

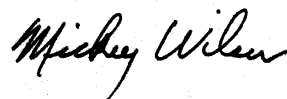
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Office of State Courts Administrator
Department of Mental Health
Department of Corrections
Department of Social Services
Department of Public Safety
 – Missouri State Highway Patrol
Office of Prosecution Services
Office of State Public Defender
State Treasurer's Office

NOT RESPONDING

**Office of Attorney General
Independence Police Department
Kansas City Police Crime Laboratory
St. Louis Metropolitan Crime Laboratory
St. Louis County Crime Laboratory
Southeast Missouri Regional Crime Laboratory
Springfield Regional Crime Laboratory
Missouri Southern State College Police Academy**



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Director
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